

Petition for Surcharge Against Former Conservator for Breach of Fiduciary Duty
 [Prob. C. 2401.3; 2620]

DOD: 4/27/12		PUBLIC GUARDIAN , Successor Conservator, is petitioner. Petitioner states the Public Guardian was appointed as successor Conservator of the deceased conservator upon the removal of the former conservator, Charles Hudiburgh. At the hearing on 1/16/13 regarding the former Conservator, Charles Hudiburgh's, second and final account, the court approved the account, but not the prior actions of the conservator. The hearing was continued to allow the Successor Conservator to determine if a surcharge is appropriate. Based on the Public Guardian's investigation, a surcharge is warranted. There were three items that the Public Guardian asserts are not sufficiently identified as required. However, as explained below, only two of the items should be deemed part of a surcharge. a. There were cash withdrawals of \$2,480.00 over a 26 month period, which equates to less than \$100 per month. Although there is no information as to the use of those funds, \$100 a month is an approximate amount the Public Guardian would provide to the Conservatee as personal needs money, which does not have to be accounted for. Therefore, a surcharge for the cash withdrawals is not warranted. b. There were payments to Sears for 21 months in the total amount of \$3,756.25. Since there is no explanation for these expenditures, they are presumed to be misappropriations, and thus are appropriately considered as part of the surcharge. Please see additional page	NEEDS/PROBLEMS/COMMENTS:
Cont. from 041013			
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified		
<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		
<input checked="" type="checkbox"/>	Notice of Hrg		
<input checked="" type="checkbox"/>	Aff.Mail W/		
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
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<input type="checkbox"/>	Conf. Screen		
<input type="checkbox"/>	Letters		
<input type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input checked="" type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		
		Reviewed by: KT Reviewed on: 5/20/13 Updates: Recommendation: File 1 - Hudiburgh	

- c. There were 58 disbursements titled "unknown" during the account period. Without any proof, or even explanation, that the funds were used for the conservatee's benefit, the total amount \$14,496.86 should be part of the surcharge against the former conservator.

The total amount of surcharge is \$18,253.11. Probate Code §850 et seq. allows for double damages and attorney fees to be awarded if the misappropriation was done in bad faith. The Public Guardian was not familiar with the case until after the conservatee died and the conservator was in jail. Therefore, she looks to the Court to determine what amount, if any, above the \$18,253.11 should be part of the surcharges.

As of at least April 2011, there was a \$125,000.00 bond in place. Petitioner requests that the bond company, Fidelity Insurance Company, be ordered to pay the successor conservator, the amount of \$18,253.11, in addition to any other amount the court orders, as surcharge against Charles Hudiburgh, for breaching his fiduciary duty to the conservatee by misappropriating funds from the conservatorship.

Petitioner prays that:

1. The Court find that the former Conservator, Charles Hudiburgh, breached his fiduciary duty to the conservatee;
2. The court find that the actual loss to the estate is \$18,253.11, and make an order of surcharge against the former conservator in that amount;
3. The Court make further orders regarding additional surcharge, as deemed appropriate;
4. The bond company, Fidelity Insurance Company, be ordered to pay the successor conservator the amount the Court determines to be a proper surcharge; and
5. Any other orders that the Court considers proper.

(1) Fifth and Final Account and Report of Conservator, (2) Petition for Allowance of Compensation to Conservator and Attorney, and (3) Distribution (Prob. C. 1860, 2620, 2623, 2630, 2631, 2942)

DOD: 1-9-13		PUBLIC GUARDIAN , Conservator, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
		Account period: 8-1-11 through 1-9-13	
		Accounting: \$201,781.55	
		Beginning POH: \$178,851.82	
		Ending POH: \$161,760.07	
	Aff.Sub.Wit.		
✓	Verified	Account period: 1-10-13 through 2-13-13	
	Inventory	Accounting: \$161,827.33	
	PTC	Beginning POH: \$161,760.07	
	Not.Cred.	Ending POH: \$9,589.25 (cash)	
✓	Notice of Hrg	Conservator: \$3,367.64 (for 22.12 Deputy hours @	
✓	Aff.Mail	\$96/hr and 16.37 Staff hours @ \$76/hr)	
	Aff.Pub.	Attorney: \$1,875.00 (per local rule - \$1,250/year for	
	Sp.Ntc.	1½ yrs)	
	Pers.Serv.	Bond fee: \$53.98 (ok)	
	Conf. Screen	Costs: \$435.00 (filing)	
	Letters	After payment of the authorized fees and	
	Duties/Supp	commissions of \$5,731.62, Petitioner requests to	
	Objections	distribute the remaining \$3,857.63 to the Public	
	Video Receipt	Administrator.	
	CI Report		
	9202		
✓	Order	Petitioner prays that:	
	Aff. Posting	1. The Court find that conservatorship of the	
	Status Rpt	person and estate terminated on 1-9-13, the	
	UCCJEA	conservatee's date of death;	
	Citation	2. The Court find that notice of hearing has been	
	FTB Notice	given as required by law and make an order	
		approving, allowing and settling the account;	
		3. Authorizing the conservator's and attorney's	
		compensation;	
		4. Authorizing payment of the bond fee;	
		5. Authorizing transfer of the balance to the	
		Public Administrator; and	
		6. Any other orders the Court considers proper.	
			Reviewed by: skc
			Reviewed on: 5-20-13
			Updates:
			Recommendation:
			File 2 – Rossi

(1) Third Account Current and Report of Conservator; (2) Petition for Allowance of Compensation to Conservator and Attorney [Prob. C. 2620; 2623; 2640; 2942]

Age: 69 years	PUBLIC GUARDIAN , Conservator, is petitioner.		NEEDS/PROBLEMS/COMMENTS:
	Account period: 1/22/11 – 2/28/13		
Cont. from	Accounting - \$30,699.43		<p>Note: If the petition is granted, a status hearing will be set as follows:</p> <ul style="list-style-type: none"> Friday, April 17, 2015 at 9:00 a.m. in Department 303, for the filing of the fourth account. <p>Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior the date set the status hearing will come off calendar and no appearance will be required.</p>
<input type="checkbox"/> Aff.Sub.Wit.	Beginning POH - \$ 2,563.09		
<input checked="" type="checkbox"/> Verified	Ending POH - \$ 2,491.46		
<input type="checkbox"/> Inventory	Conservator - \$1,860.80		
<input type="checkbox"/> PTC	(12.29 Deputy hours @ \$96/hr and 8.96 Staff hours @ \$76/hr)		
<input type="checkbox"/> Not.Cred.	Attorney - \$1,000.00		
<input checked="" type="checkbox"/> Notice of Hrg	(Less than allowed per Local Rule)		
<input checked="" type="checkbox"/> Aff.Mail	W/	Petitioner request that due to the insufficiency of the estate to pay the fees and commissions that a lien be imposed upon the estate for any unpaid balances of the authorized fees and commissions.	
<input type="checkbox"/> Aff.Pub.		Petitioner prays for an Order: <ol style="list-style-type: none"> 1. Approving, allowing and settling the third account. 2. Authorizing the conservator and attorney fees and commissions 3. Authorize petitioner to impose a lien on the estate for any unpaid balances of authorized fees and commissions 	
<input type="checkbox"/> Sp.Ntc.			
<input type="checkbox"/> Pers.Serv.			
<input type="checkbox"/> Conf. Screen			
<input type="checkbox"/> Letters			
<input type="checkbox"/> Duties/Supp			
<input type="checkbox"/> Objections			
<input type="checkbox"/> Video Receipt			
<input type="checkbox"/> CI Report			
<input type="checkbox"/> 9202			
<input checked="" type="checkbox"/> Order			
<input type="checkbox"/> Aff. Posting			
<input type="checkbox"/> Status Rpt			
<input type="checkbox"/> UCCJEA			
<input type="checkbox"/> Citation			
<input type="checkbox"/> FTB Notice			
			Reviewed by: KT Reviewed on: 5/21/2013 Updates: Recommendation: File 3 – McMullen

<div style="border: 1px solid black; padding: 2px;"> Elizabeth A. McCann ("Mrs. McCann") DOD: 8-7-10 </div> <div style="border: 1px solid black; padding: 2px;"> John P. McCann ("Dr. McCann") DOD: 10-12-06 </div> <div style="border: 1px solid black; padding: 2px; margin-top: 10px;"> Cont. from 051012, 062512, 100112, 111412, 012213, 031913, 050613 </div> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 5px;"> <tr><td>Aff.Sub.Wit.</td><td></td></tr> <tr><td>Verified</td><td></td></tr> <tr><td>Inventory</td><td></td></tr> <tr><td>PTC</td><td></td></tr> <tr><td>Not.Cred.</td><td></td></tr> <tr><td>Notice of Hrg</td><td></td></tr> <tr><td>Aff.Mail</td><td></td></tr> <tr><td>Aff.Pub.</td><td></td></tr> <tr><td>Sp.Ntc.</td><td></td></tr> <tr><td>Pers.Serv.</td><td></td></tr> <tr><td>Conf. Screen</td><td></td></tr> <tr><td>Letters</td><td></td></tr> <tr><td>Duties/Supp</td><td></td></tr> <tr><td>Objections</td><td></td></tr> <tr><td>Video Receipt</td><td></td></tr> <tr><td>CI Report</td><td></td></tr> <tr><td>9202</td><td></td></tr> <tr><td>Order</td><td></td></tr> <tr><td>Aff. Posting</td><td></td></tr> <tr><td>Status Rpt</td><td></td></tr> <tr><td>UCCJEA</td><td></td></tr> <tr><td>Citation</td><td></td></tr> <tr><td>FTB Notice</td><td></td></tr> </table>	Aff.Sub.Wit.		Verified		Inventory		PTC		Not.Cred.		Notice of Hrg		Aff.Mail		Aff.Pub.		Sp.Ntc.		Pers.Serv.		Conf. Screen		Letters		Duties/Supp		Objections		Video Receipt		CI Report		9202		Order		Aff. Posting		Status Rpt		UCCJEA		Citation		FTB Notice		<p>DANIEL J. MCCANN, Trust beneficiary, co-trustee, and adult son of Trustors, is Petitioner.</p> <p>COLLEEN E. DEMPSEY and JOHN P. MCCANN, Trust beneficiaries, co-trustees, and adult children of Trustors, are Respondents.</p> <p>This First Amended Petition filed 3-7-12 alleges three (3) causes of action.</p> <p>Pursuant to Stipulation filed 4-13-12, the First and Second Causes of Action in this amended petition are stayed subject to 45 days' written notice requiring response.</p> <p>The Stipulation also states that, absent the stipulation, Respondents would file a Motion to Strike the allegations of certain facts relating to whether the law firm representing Respondents should have or failed to verify the competency of Trustor Mrs. McCann prior to executing the Second and Third Amendments to the Trust. However, in the Stipulation, Petitioner agrees that he will not seek to disqualify the firm based on the allegations.</p> <p>The Stipulation provides that Respondents will file an answer to the allegations of the Third Cause of Action within 20 days of the filing of the Stipulation. (Answer filed 5-9-12)</p> <p>The Stipulation further agreement regarding possible future petitions for removal of Respondents as successor trustees, or for accounting, and states that a Petition for accounting will be provided within 60 days of the Stipulation, and Petitioner will not file a petition for removal of Respondents as successor trustees, or for accounting, within 60 days of the Stipulation.</p> <p>In addition, the Stipulation provides that Petitioner will provide certain documents to Respondent within 60 days of the Stipulation.</p> <p>On 5-9-12, Respondents filed an <u>Answer to First Amended Petition (Third Cause of Action only)</u> and also filed a <u>Petition for Order Compelling Predecessor Trustee to Account for Trust Assets and Expenditures and to Redress Breach of Trust, Directing Transfer of Property to Successor Trustees, and Awarding Statutory Damages</u> that was set for hearing on 6-25-12.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Note:</u> These Examiner Notes were prepared for the first hearing on this Amended Petition on 5-10-12, which, according to the attorneys, was to be treated as a status conference only due to ongoing discovery in progress.</p> <p><u>Therefore, these Examiner Notes summarize the points of the Stipulation with reference to the First Amended Petition, rather than providing summary review of the First Amended Petition.</u></p> <p>The matter has been continued since 1-10-12, and a separate petition has also been filed by Respondents (See Page 1B).</p> <p>Page 1C is a Status Hearing that was set with reference to this original matter and has followed the hearings since 5-10-12.</p> <p>See Page 2 for history per Court records.</p> <div style="border: 1px solid black; padding: 2px; margin-top: 10px;">Reviewed by: skc</div> <div style="border: 1px solid black; padding: 2px; margin-top: 2px;">Reviewed on: 5-1-13</div> <div style="border: 1px solid black; padding: 2px; margin-top: 2px;">Updates:</div> <div style="border: 1px solid black; padding: 2px; margin-top: 2px;">Recommendation:</div> <div style="border: 1px solid black; padding: 2px; margin-top: 2px;">File 4A - McCann</div>
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Page 2 – History

Daniel McCann's original petition was filed 2-28-11 in San Francisco Superior Court. The parties stipulated to a change of venue to Fresno Superior Court. Demurrer was filed 12-14-11.

On 2-22-12, the Court entered its Order Sustaining Demurrer to Petition of Daniel J. McCann, with Leave to Amend.

3-7-12 – Daniel J. McCann filed the instant Amended Petition and requests judgment as follows:

1. For a determination that respondents and all beneficiaries were properly served;
2. That respondents negligently interfered with Petitioner's right to inherit, or intentionally interfered with Petitioner's right to inherit;
3. For compensatory damages in according to proof;
4. For punitive damages according to proof;
5. For a judicial determination of the validity and enforceability of the Second and Third Amendments to Surviving Trustor's Trust and Exercise of Powers of Appointment; and
6. That the court order respondents to pay Petitioner's costs and legal fees incurred to file this petition.

4-16-12 – The Court entered an Order on Stipulation of Parties to Stay Certain causes of Action, to Respond to other causes of Action in the First Amended Petition, and to Resolve other Matters

5-9-12 – Respondents filed Petition for Order Compelling Predecessor Trustee to Account for Trust Assets and Expenditure and to Redress Breach of Trust, Directiong Transfer of Property to Successor Trustees and Awarding Statutory Damages (Prob. C. 17200, 16061, 16420, 850 & 859) [by fax]; Hearing set for 6-25-12 at 9am in Dept 303

Minute Order 5-10-12 (Daniel McCann's Petition): Matter set for Status Conference on 6/25/12. The Court directs that the new petition be set for 6/25/12 at 1:30 p.m. Counsel is directed to file his response to the new petition within 30 days. Continued to 6/25/12, 1:30 p.m., Dept. 303
Set on 6/25/12, 1:30 p.m., Dept. 303 for Status Conference

Minute Order 6-25-12 (Daniel McCann's Petition): Continued to 10-1-12.

Minute Order 6-25-12 (Respondents' Petition): Continued to 10-1-12.

Minute Order 6-25-12 (Status Hearing): Mr. Judd and Mr. Foreman are appearing via conference call. Matter continued to 10/1/12 at 1:30 p.m. with the understanding that should both counsel desire to have a settlement conference on that date, all counsel will need to appear at 10:30 a.m. and settlement conference briefs will need to be submitted one week in advance. Counsel is directed to notify the Clerk if a settlement conference is requested. Continued 10/1/12 at 1:30 PM in Dept. 303.

Minute Order 10-1-12 (Daniel McCann's Petition): Continued to 11-14-12.

Minute Order 10-1-12 (Respondents' Petition): Continued to 11-14-12.

Minute Order 10-1-12 (Status Hearing): Nature of Hearing: Status Conference with Possible Settlement Conference; Mr. Foreman and Mr. Judd are appearing via conference call. Matter continued to 11/14/12. Counsel is directed to submit status conference statements before the next hearing.

Minute Order 11-14-12 (Daniel McCann's Petition): Continued to 1-22-13.

Minute Order 11-14-12 (Respondents' Petition): Continued to 1-22-13.

Minute Order 11-14-12 (Status Hearing with Possible Settlement): Continued to 1-22-13.

Minute Order 1-22-13 (Daniel McCann's Petition): Continued to 3-19-13.

Minute Order 1-22-13 (Respondents' Petition): Continued to 3-19-13.

Minute Order 1-22-13 (Status): Mr. Judd informs the Court that they are on schedule with respect to getting the information.

Page 3 – History (Cont'd)

Minute Order 3-19-13 (Daniel McCann's Petition): Continued to 5-6-13.

Minute Order 3-19-13 (Respondents' Petition): Continued to 5-6-13.

Minute Order 3-19-13 (Status): Mr. Judd informs the Court that they are on schedule with respect to Mr. Judd is appearing via conference call. Mr. Foreman advises the Court that Ms. Burnside is appearing as co-counsel. Mr. Foreman informs the Court that they were unable to resolve this matter. At the request of counsel, the Court sets a Discovery Meeting for 5/6/13. Counsel is directed to submit their relevant documents along with courtesy copies for the Court by 4/22/13. Continued to 5/6/13 @ 1:30 p.m. Dept. 303; Set on 5/6/13 @ 1:30 p.m. Dept. 303 for: Discovery Meeting

4-12-13: Daniel McCann filed Petition for Instructions Prohibiting Trustees from Using Trust Funds to Defend the First Amended Petition (Prob. C. 17200) – set for hearing 6-3-13 at 9am in Dept 303

**Petition for Order Compelling Predecessor Trustee to Account for Trust Assets and Expenditure
and to Redress Breach of Trust, Directing Transfer of Property to Successor Trustees and Awarding
Statutory Damages (Prob. C. 17200, 16061, 16420, 850 & 859)**

Elizabeth A. McCann ("Mrs. McCann") DOD: 8-7-10		COLLEEN E. DEMPSEY and JOHN P. MCCANN , Trustees of the JOHN P. MCCANN AND ELIZABETH A. MCCANN DECLARATION OF TRUST dated 4-2-99, as amended, are Petitioners.	NEEDS/PROBLEMS/COMMENTS: Note: Daniel McCann filed Response, Objections and Opposition to this petition on 6-22-12 and requests that this petition be denied and the Court award Respondent costs.
John P. McCann ("Dr. McCann") DOD: 10-12-06			
Cont. from 012213, 031913, 050613		Petitioners allege that upon reviewing trust records following Mrs. McCann's death, the Trustees discovered a number of substantial unexplained and unsubstantiated expenditures from trust accounts that were made by Daniel J. McCann ("Respondent" herein) while he was living with his mother and had taken control of those accounts. Expenditures included payments of \$781,966.39 to American Express for Respondent's personal credit card bills; and approx. \$225,000 of additional unexplained, unsupported expenditures for his personal benefit.	1. The petition does not state the names and addresses of each person entitled to notice of the petition pursuant to Probate Code §17201.
Aff.Sub.Wit.			
Verified		Petitioners state Respondent was acting in a fiduciary capacity during this time as his mother's primary caretaker, for which he was compensated. Moreover, he restricted his mother's access to financial information and statements, and had formally been appointed as a co-trustee, but refused to relinquish his exclusive control over the assets to the other co-trustees until Mrs. McCann moved out of the property where he had been residing with her. Therefore, he was acting as <i>de facto</i> sole trustee when the expenditures were made which Petitioners believe constituted breach of trust. Respondent should be ordered to account and produce all documents, supporting receipts, and other information relevant to their nature and purpose, and should be ordered to return or reimburse funds to the trustees with interest.	Reviewed by: skc
Inventory			
PTC		Petitioners also state Respondent was granted a bare title interest in the Vermont property for convenience only (to perform interior design services) with no intent that he receive the property over and above his equal share of the trust.	Reviewed on: 5-1-13
Not.Cred.			
Notice of Hrg		Petitioners state Respondent's name was put on title but he did not receive any beneficial ownership interest. No gift tax returns were ever filed to report this change of title.	Updates:
Aff.Mail			
Aff.Pub.		SEE ADDITIONAL PAGES	Recommendation:
Sp.Ntc.			
Pers.Serv.		File 4B - McCann	
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
Order			
Aff. Posting			
Status Rpt			
UCC/JEA			
Citation			
FTB Notice			

Page 2

After Dr. McCann died, Mrs. McCann reported the property on his federal estate tax return as jointly owned by them only – Respondent's bare title interest was not mentioned.

Likewise, in a verified "Heggstad" petition filed by Mrs. McCann on 8-8-07 in Marin County Superior Court (Case No. PRO 073729) as successor trustee, the property was reported as community property of Dr. and Mrs. McCann to be conveyed and distributed as part of the trust. There was no reference to Respondent having an interest in the property.

Finally, the Property was specifically allocated to the Marital Trust when the Trust was divided. Thus, Mrs. McCann always intended and understood that all beneficial ownership was held by and would pass pursuant to the trust.

Petitioners state that when Respondent was confronted with documentation of his name on the title to the property, he executed a quitclaim deed back to his parents on 4-11-07. However, the deed was never recorded.

The First Amendment to the trust expressly provides that the property shall be allocated to Respondent as part of his equal share of the trust if he so elects. This arrangement was discussed when the successor trustee appointments were made and executed. He expressed satisfaction with this arrangement on both occasions.

However, on 8-8-08, Respondent had Mrs. McCann execute a Warranty Deed restoring his joint tenancy interest in the property, and concealed this from the trustees. This deed was not prepared by the estate-planning attorney in Maine, and the attorney also did not prepare two other documents purportedly signed in January 09 which purport to give Respondent the contents of the property and forgive any debts to her.

Respondent failed to inform the trustees of the Warranty Deed until after Mrs. McCann's death when he transferred the names on the various accounts for the property into his own name, and for the first time since his name had been placed on title, paid property taxes and insurance from his own funds.

In Oct 2010, he hired an attorney to commence his challenge of the trust and formally assert the position that he owns the property outright as surviving joint tenant, repudiating the long-term agreement that the joint tenancy was simply and unequivocally an accommodation for his convenience.

Respondent holds title to the property subject to a resulting trust or constructive trust fbo the trust and should be ordered to quitclaim all of his interest to the trustee.

In addition, Petitioners state Respondent has wrongfully taken, concealed and disposed of other property of Mrs. McCann and the trust. He gained access to the real property in Maine without authorization, changed locks, removed tangible personal property of the trust including four expensive oil paintings, a mink coat, and other valuables. He used trust funds to purchase a new Mercedes Benz for his sole personal use, and made other unsupported expenditures, cash withdrawals and payments that cannot be traced to any valid trust purpose. He threw lavish parties at the Property and the Maine property, travelled frequently at the trust's expense, and otherwise spent trust money as if trust assets were his own assets.

Petitioners provide authority for the foregoing petition and pray for an order:

- 1. That the Trust and all Amendments thereto are valid;**
- 2. Directing Respondent, as former Trustee, to produce all documents and records, including supporting receipts, for the expenditures identified in Exhibits M and N to this petition;**
- 3. Directing Respondent to return to, or reimburse, the Trust for all assets wrongfully taken, with interest at the legal rate;**
- 4. Directing Respondent to pay the Trustees an amount equal to twice the value of all assets recovered herein pursuant to Probate Code §859;**
- 5. Directing that Petitioners' Attorneys' fees and costs herein be charged against Respondent's share of the Trust upon final distribution; and**
- 6. For such other and further relief as the Court deems appropriate.**

Status Hearing Re: Setting Hearing Date for Discover Motion

Age:		<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>OFF CALENDAR</u></p> <p>Discovery motions have been filed and are set for hearing on 7-11-13.</p>
DOD:		
Cont. from		
	Aff.Sub.Wit.	
	Verified	
	Inventory	
	PTC	
	Not.Cred.	
	Notice of Hrg	
	Aff.Mail	
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
	Letters	
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
	9202	
	Order	
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	
		Reviewed by: skc
		Reviewed on: 5-22-13
		Updates:
		Recommendation:
		File 4C - McCann

4C

(1) First and Final Account and Report of Executor and (2) Petition for Its Settlement, for Attorney's Fees, Compensation to Executor and for (3) Final Distribution (Prob. C. 11640)

DOD: 7-15-11		WILLIAM R. JOHNSTON II , Executor, is Petitioner.		NEEDS/PROBLEMS/COMMENTS:	
		Account period: 7-15-11 through 4-15-13		<u>SEE ADDITIONAL PAGES</u>	
		Accounting: \$541,597.93			
		Beginning POH: \$532,689.48			
		Ending POH: \$537,650.97			
		(\$534,900.97 cash plus personal property including vehicle, furniture and furnishings, and a sewing machine)			
	Aff.Sub.Wit.				
✓	Verified				
✓	Inventory				
✓	PTC				
✓	Not.Cred.				
✓	Notice of Hrg				
✓	Aff.Mail	w			
	Aff.Pub.				
	Sp.Ntc.				
	Pers.Serv.				
	Conf. Screen				
✓	Letters				
	Duties/Supp				
	Objections				
	Video Receipt				
	CI Report				
✓	9202				
✓	Order				
	Aff. Posting				
	Status Rpt				
	UCCJEA				
	Citation				
✓	FTB Notice				

Executor (Statutory): \$13,831.95

Attorney (Statutory): \$13,831.95

Costs: \$1,656.00 (filing, publication, certified copies, probate referee)

Closing: \$4,000.00

Petitioner states that in addition to the **3-5-02 Will** that was admitted to probate on 5-22-12, additional estate documents also exist:

The **3-5-02 Will** devises personal property to Petitioner and his wife Gina Johnston and the residue of the estate to the **Diane Sue Olson Living Trust**, of which Petitioner and his wife Gina Johnston are the beneficiaries.

Unbeknownst to Petitioner, the decedent created another trust on 6-30-10; however, that trust contained no dispositive provisions

In addition a **2-16-11 Will** that names Decedent's friends **Nancy R. Pond and James M. Cardella** as beneficiaries exists.

Because of the conflicting documents and to avoid litigation in the probate court, the four beneficiaries reached agreement as to how the property would be divided and which will and trust would control.

Reviewed by: skc

Reviewed on: 5-21-13

Updates:

Recommendation:

File 5 – Olson

Pursuant to Agreement Among Beneficiaries dated 4-4-12, Petitioner requests distribution as follows:

- \$2,500.00 to the **Firebaugh-Las Deltas Unified School District** to be used for the purchase of library books for children ages five to 10 years old
 - \$2,500.00 to the **Firebaugh-Las Deltas Unified School District** to be used for the purchase of classroom materials benefitting children with special needs
 - \$1,000.00 to the \$2,500.00 to the **Firebaugh-Mendota United Methodist Church**
 - \$500.00 to **Lydia Madrid**
 - Sewing Machine to **Linda Municha Machado**
 - Photos/Slides to **Linda Municha Machado**
 - Books to **Firebaugh Branch of Fresno County Free Library**
 - Clothing to **Poverello House**
 - Household furniture and furnishings, excluding items above, to **William R. Johnston, II**
 - 60% of the residue, which is cash in the amount of \$296,902.24 to **William R. Johnston, II**
 - 40% of the residue, which is cash in the amount of \$197,934.82, jointly to **Nancy R. Pond and James M. Cardella**
-

NEEDS/PROBLEMS/COMMENTS:

1. The 3-5-02 Will that was admitted to probate on 5-22-12 devises the decedent's personal property to William and Gina Johnston, and the residue to the DIANE SUE OLSON LIVING TRUST.

This petition now discloses the existence of a later conflicting will (the 2-16-11 Will) with additional heirs and requests distribution according to an agreement entered into by some of those heirs prior to the opening of this probate.

However, the Court has not been provided a copy of the 2-6-11 Will referenced in connection with this petition. Therefore, it is not clear whether the distribution scheme outlined in the agreement is appropriate, or whether all parties entitled to notice have been given notice.
2. Probate Code §8110 requires notice of petition to administer estate to heirs known to the petitioner. It appears that when this probate was opened, Petitioner was aware of the additional estate documents and heirs; however, there were not disclosed in the original petition and were not sent notice of this Probate.

At this time, it appears that those heirs of the specific devises outlined in the agreement have been noticed; however, again, because the additional estate documents were not provided it is not clear if all parties entitled to notice have been given notice.
3. Petitioner provided notice of this hearing to "Central CA SPCA;" however, this entity is not mentioned in the agreement or in the petition. Need clarification. Is Central CA SPCA an heir under the other documents?
4. Petitioner provides only a copy of the agreement between heirs. Further, three of the signatures on the agreement are not dated, and neither David Roberts, attorney for Petitioner, nor Stacy Sablan, attorney for Ms. Pond and Mr. Cardella, signed the agreement. The Court may require an original, and may require clarification regarding the agreement.
5. The petition requests distribution of 60% of the residue, after specific gifts, to William R. Johnston, II, apparently individually. However, the agreement indicates distribution should be to William R. Johnston, II, as successor trustee of the Diane Sue Olson Living Trust. Need clarification. (See Paragraph 29. K. of the Petition and corresponding order.)
6. The petition requests distribution of 40% of the residue (\$197,934.82 cash) jointly to Nancy R. Pond and James M. Cardella. Need clarification: If the \$197,934.82 is to be distributed in one lump sum jointly to Ms. Pond and Mr. Cardella, need written consent to receive distribution of this amount in undivided interests (Local Rule 7.12.3). Alternatively, if each heir is to receive one half of that amount, the order should specify the dollar amount to each heir (Local Rule 7.6.1.A.).

DOD: 12/02/2012		JANA L. TERRY , daughter/named executor without bond, is petitioner.	NEEDS/PROBLEMS/COMMENTS:
Cont. from		Full IAEA – o.k.	
	Aff.Sub.Wit.	s/p	
✓	Verified		Will dated: 05/08/2001 Codicil: 09/01/2007
	Inventory		
	PTC		
	Not.Cred.		Residence: Fresno Publication: The Business Journal
✓	Notice of Hrg		
✓	Aff.Mail	w/	Note: Status hearings will be set as follows:
✓	Aff.Pub.		<ul style="list-style-type: none"> Friday, October 25, 2013 at 9:00 am in Dept. 303 for filing of the Inventory & Appraisal; and Friday, July 25, 2014 at 9:00 am in Dept. 303 for filing of the Accounting/Petition for Distribution.
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter the status hearing will come off calendar and no appearance will be required.
✓	Letters		
✓	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
			Reviewed by: LV
			Reviewed on: 05/21/2013
			Updates:
			Recommendation: Submitted
			File 6 – Hoak

**Petition for Probate Letters of Administration; Authorization to Administer Under
IAEA (Prob. C. 8002, 10450)**

DOD: 06/23/2008		FRANCES YBARRA , sister is petitioner and requests appointment as Administrator without bond. Full IAEA – o.k. Decedent died intestate Residence: Fresno Publication: The Business Journal <u>Estimated value of the Estate:</u> Real property - \$27,500.00 Probate Referee: Rick Smith Declaration of petitioner, Frances Ybarra, filed 04/16/2013 states the title of the residence was "tenants in common" and that the decedent only lived in the home for a year or two around 1982. Petitioner states that she has paid all of the mortgage payments, paid all property taxes and paid all of the maintenance and repairs on the home for the past 30 years. Petitioner did not realize the legal effects of holding the title as "tenants in common." Petitioner states that bond should be waived and distribution should be to petitioner for the foregoing reasons.	NEEDS/PROBLEMS/COMMENTS: 1. Need name and date of death of the decedent's spouse pursuant to Local Rule 7.1.1D. 2. Need date of death of decedent's deceased daughter, Annette Roman, pursuant to Local Rule 7.1.1D. 3. If Annette Roman left issue those individuals must be listed and or identified on #8 of the petition. 4. Estate includes two minor beneficiaries a minor cannot waive bond therefore bond should be set at \$27,500.00. 5. A waiver of bond cannot be signed by anyone on behalf of a minor unless the Court has appointed that person as Guardian of the Estate and letters are provided. <u>Note:</u> Status hearings will be set as follows: <ul style="list-style-type: none"> Friday, October 25, 2013 at 9:00 am in Dept. 303 for filing of the Inventory & Appraisal; and Friday, July 25, 2014 at 9:00 am in Dept. 303 for filing of the Accounting/Petition for Distribution. Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter the status hearing will come off calendar and no appearance will be required.
Cont. from			
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified		
<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		
<input checked="" type="checkbox"/>	Notice of Hrg		
<input checked="" type="checkbox"/>	Aff.Mail w/o		
<input checked="" type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen		
<input checked="" type="checkbox"/>	Letters		
<input checked="" type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input checked="" type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		

Reviewed by: LV
Reviewed on: 05/21/2013
Updates:
Recommendation:
File 7 – Corona

Status Hearing Re: Filing of the Inventory and Appraisal

DOD: 7/13/10		<p>ROBERT ACUNA, JR. and DESIREE ACUNA, were appointed as Co-Administrators without bond on 02/18/11 and Letters were issued on 05/26/11.</p> <p>Inventory and Appraisal was due on 9/26/11.</p> <p>On 3/22/12 the Court signed an order granting attorney Mara Erlach's Motion to be Relieved as Counsel.</p> <p>At the hearing on 3/22/12 the Court set an Order to Show Cause hearing and Ordered both Robert Acuna, Jr. and Desiree Acuna to be present.</p> <p>Order to Show Cause and Minute Order were mailed to both Robert Acuna, Jr. and Desiree Acuna on 3/23/12.</p> <p>Minute order from 4/26/12 indicates there were no appearances. The court removed Robert Acuna Jr., and Desiree Acuna. The court appointed the Public Administrator as administrator without bond.</p> <p>The Public Administrator's Letters were issued on 6/27/12.</p> <p>Status Report filed on 2/28/13 states based on their investigations, the Public Administrator and his Attorney question whether administration of this estate should continue. According to the original petition for probate, there was 10,000 in personal property and \$100,000 in real property. The only beneficiaries are the former administrators. The only creditors are the State of California Franchise Tax Board (\$2,020.41) and the Fresno County Tax Collector (\$263.99). If the former administrator paid those two creditors, the Public Administrator believes the estate could be closed without approving the acts of the former administrator.</p>	NEEDS/PROBLEMS/COMMENTS:	
Cont. from 082712, 112612, 010713, 030713				
<input type="checkbox"/>	Aff.Sub.Wit.			<input type="checkbox"/>
<input type="checkbox"/>	Verified			<input type="checkbox"/>
<input type="checkbox"/>	Inventory			<input type="checkbox"/>
<input type="checkbox"/>	PTC			<input type="checkbox"/>
<input type="checkbox"/>	Not.Cred.			<input type="checkbox"/>
<input type="checkbox"/>	Notice of Hrg			<input type="checkbox"/>
<input type="checkbox"/>	Aff.Mail			<input type="checkbox"/>
<input type="checkbox"/>	Aff.Pub.			<input type="checkbox"/>
<input type="checkbox"/>	Sp.Ntc.			<input type="checkbox"/>
<input type="checkbox"/>	Pers.Serv.			<input type="checkbox"/>
<input type="checkbox"/>	Conf. Screen			<input type="checkbox"/>
<input type="checkbox"/>	Letters			<input type="checkbox"/>
<input type="checkbox"/>	Duties/Supp			<input type="checkbox"/>
<input type="checkbox"/>	Objections			<input type="checkbox"/>
<input type="checkbox"/>	Video Receipt			<input type="checkbox"/>
<input type="checkbox"/>	CI Report			<input type="checkbox"/>
<input type="checkbox"/>	9202			<input type="checkbox"/>
<input type="checkbox"/>	Order			<input type="checkbox"/>
<input type="checkbox"/>	Aff. Posting			<input type="checkbox"/>
<input type="checkbox"/>	Status Rpt			<input type="checkbox"/>
<input type="checkbox"/>	UCCJEA			<input type="checkbox"/>
<input type="checkbox"/>	Citation			<input type="checkbox"/>
<input type="checkbox"/>	FTB Notice			<input type="checkbox"/>

Reviewed by: KT
Reviewed on: 5/20/13
Updates:
Recommendation:
File 8A - Acuna

Order to Show Cause Re: Failure to Appear; Failure to Provide Information; Imposition of Sanctions in the Amount of \$500.00

DOD: 7/13/10		<p>ROBERT ACUNA, JR. and DESIREE ACUNA, were appointed as Co-Administrators without bond on 02/18/11 and Letters were issued on 05/26/11.</p> <p>Inventory and Appraisal was due on 9/26/11.</p> <p>On 3/22/12 the Court signed an order granting attorney Mara Erlach's Motion to be Relieved as Counsel.</p> <p>At the hearing on 3/22/12 the Court set an Order to Show Cause hearing and Ordered both Robert Acuna, Jr. and Desiree Acuna to be present.</p> <p>Order to Show Cause and Minute Order were mailed to both Robert Acuna, Jr. and Desiree Acuna on 3/23/12.</p> <p>Minute order from 4/26/12 indicates there were no appearances. The court removed Robert Acuna Jr., and Desiree Acuna. The court appointed the Public Administrator as administrator without bond.</p> <p>The Public Administrator's Letters were issued on 6/27/12.</p> <p>Status Report of the Public Administrator filed on 1/3/13 indicated the Public Administrator reported that former Administrators Robert Acuna, Jr. and Desiree Acuna were not cooperating with the Public Administrator in order for the Public Administrator to prepare the inventory and close the estate.</p> <p>Minute order dated 1/7/13 set this Order to Show Cause on 3/7/13 regarding Robert Acuna, Jr. and Desiree Acuna's failure to appear; failure to provide information, and the imposition of sanctions in the amount of \$500.00. Robert Acuna, Jr. and Desiree Acuna are ordered to be personally present. A copy of the Order to Show Cause was mailed to Robert Acuna, Jr. and Desiree Acuna on 1/8/13.</p> <p>Minute Order dated 3/7/13 states the court notes that the hour is 10:18 a.m. and neither Robert Acuna nor Desiree Acuna are present in court. Court imposes sanctions against Robert Acuna and Desiree Acuna in the amount of \$500 each. The Court Orders Robert Acuna and Desiree Acuna to be personally present on 5/23/13.</p> <p>Order to Show Cause and Minute Order dated 3/7/13 were mailed to Robert Acuna and Desiree Acuna on 3/12/13.</p>	NEEDS/PROBLEMS/COMMENTS:	
Cont. from 030713				
Aff.Sub.Wit.				
Verified				
Inventory				
PTC				
Not.Cred.				
Notice of Hrg				
Aff.Mail				
Aff.Pub.				
Sp.Ntc.				
Pers.Serv.				
Conf. Screen				
Letters				
Duties/Supp				
Objections				
Video Receipt				
CI Report				
9202				
Order				
Aff. Posting				
Status Rpt				
UCCJEA				
Citation				
FTB Notice				
				<p>Reviewed by: KT</p> <p>Reviewed on: 5/20/13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 8B - Acuna</p>

8B

Status Hearing Re: Filing of the Inventory and Appraisal

DOD: 7/13/10		<p>ROBERT ACUNA, JR. and DESIREE ACUNA, were appointed as Co-Administrators without bond on 02/18/11 and Letters were issued on 05/26/11.</p> <p>Inventory and Appraisal was due on 9/26/11.</p> <p>On 3/22/12 the Court signed an order granting attorney Mara Erlach's Motion to be Relieved as Counsel.</p> <p>At the hearing on 3/22/12 the Court set an Order to Show Cause hearing and Ordered both Robert Acuna, Jr. and Desiree Acuna to be present.</p> <p>Order to Show Cause and Minute Order were mailed to both Robert Acuna, Jr. and Desiree Acuna on 3/23/12.</p> <p>Minute order from 4/26/12 indicates there were no appearances. The court removed Robert Acuna Jr., and Desiree Acuna. The court appointed the Public Administrator as administrator without bond.</p> <p>The Public Administrator's Letters were issued on 6/27/12.</p> <p>Status Report filed on 2/28/13 states based on their investigations, the Public Administrator and his Attorney question whether administration of this estate should continue. According to the original petition for probate, there was 10,000 in personal property and \$100,000 in real property. The only beneficiaries are the former administrators. The only creditors are the State of California Franchise Tax Board (\$2,020.41) and the Fresno County Tax Collector (\$263.99). If the former administrator paid those two creditors, the Public Administrator believes the estate could be closed without approving the acts of the former administrator.</p>	NEEDS/PROBLEMS/COMMENTS:	
Cont. from 082712, 112612, 010713, 030713				
Aff.Sub.Wit.				
Verified				
Inventory				
PTC				
Not.Cred.				
Notice of Hrg				
Aff.Mail				
Aff.Pub.				
Sp.Ntc.				
Pers.Serv.				
Conf. Screen				
Letters				
Duties/Supp				
Objections				
Video Receipt				
CI Report				
9202				
Order				
Aff. Posting				
Status Rpt				
UCCJEA				
Citation				
FTB Notice				
				<p>Reviewed by: KT</p> <p>Reviewed on: 5/20/13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 9A - Acuna</p>

9A

**Order to Show Cause Re: Failure to Appear; Failure to Provide Information;
Imposition of Sanctions in the Amount of \$500.00**

DOD: 7/13/10		<p>ROBERT ACUNA, JR. and DESIREE ACUNA, were appointed as Co-Administrators without bond on 02/18/11 and Letters were issued on 05/26/11.</p> <p>Inventory and Appraisal was due on 9/26/11.</p> <p>On 3/22/12 the Court signed an order granting attorney Mara Erlach's Motion to be Relieved as Counsel.</p> <p>At the hearing on 3/22/12 the Court set an Order to Show Cause hearing and Ordered both Robert Acuna, Jr. and Desiree Acuna to be present.</p> <p>Order to Show Cause and Minute Order were mailed to both Robert Acuna, Jr. and Desiree Acuna on 3/23/12.</p> <p>Minute order from 4/26/12 indicates there were no appearances. The court removed Robert Acuna Jr., and Desiree Acuna. The court appointed the Public Administrator as administrator without bond.</p> <p>The Public Administrator's Letters were issued on 6/27/12. Status Report of the Public Administrator filed on 1/3/13 indicated the Public Administrator reported that former Administrators Robert Acuna, Jr. and Desiree Acuna were not cooperating with the Public Administrator in order for the Public Administrator to prepare the inventory and close the estate.</p> <p>Minute order dated 1/7/13 set this Order to Show Cause on 3/7/13 regarding Robert Acuna, Jr. and Desiree Acuna's failure to appear; failure to provide information, and the imposition of sanctions in the amount of \$500.00. Robert Acuna, Jr. and Desiree Acuna are ordered to be personally present. A copy of the Order to Show Cause was mailed to Robert Acuna, Jr. and Desiree Acuna on 1/8/13.</p> <p>Minute Order dated 3/7/13 states the court notes that the hour is 10:18 a.m. and neither Robert Acuna nor Desiree Acuna are present in court. Court imposes sanctions against Robert Acuna and Desiree Acuna in the amount of \$500 each. The Court Orders Robert Acuna and Desiree Acuna to be personally present on 5/23/13.</p> <p>Order to Show Cause and Minute Order dated 3/7/13 were mailed to Robert Acuna and Desiree Acuna on 3/12/13.</p>	NEEDS/PROBLEMS/COMMENTS:
Cont. from 030713			
Aff.Sub.Wit.			
Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg			
Aff.Mail			
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
Order			
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			

Reviewed by: KT
Reviewed on: 5/20/13
Updates:
Recommendation:
File 9B - Acuna

Petition for Appointment of Probate Conservator of the Person (Prob. C. 1820,
 1821, 2680-2682)

Age: 84		TEMP EXPIRES 5-23-13	NEEDS/PROBLEMS/COMMENTS:
		STANLEY GREENBERG and CHERYL TAYLOR , Son and Daughter, are Petitioners and request appointment as Co-Conservators of the Person with medical consent powers and dementia medication and placement powers.	<u>Court Investigator advised rights on 3-19-13</u>
Cont. from 032813		Voting rights affected	<u>Voting rights are affected - Need minute order.</u>
Aff.Sub.Wit.			
✓ Verified		Capacity Declaration was filed 2-26-13.	<u>Note: Petitioners, relatives, and attorneys Bagdasarian (for Petitioners) and Sanoian (for the proposed Conservatee) met in mediation on 3-5-13 and again on 4-29-13. The parties reached agreement, in part, that conservatorship is in the proposed conservatee's best interest, but agree to mediate again on 4-29-13 at 8:45 in Sisk 446 and request the Court continue this hearing to 5-23-13.</u>
Inventory			
PTC		Petitioners state their mother suffers from advanced Alzheimer's Disease and dementia. She resides at a care facility in Fresno. Petitioners are agents under a Power of Attorney dated 12-5-06 and an Advance Health Care Directive dated 12-5-06. Two of the conservatee's other three children, Michele Torres of Gilroy and Nadine Walker of Fresno, claim the care the Conservatee is receiving at her current placement, Serenity Living Care, Inc., is not satisfactory and have threatened to remove her to a residence or some other facility. Petitioners have been made aware from speaking with their mother and staff that while the proposed Conservatee shows an interest in knowing about her personal residence, if she is moved, she may become very confused and agitated. The Conservatee is the settlor of a living trust in which her assets are located. Petitioner Stanley Greenberg is the trustee. Petitioners do not believe any movement is in the proposed conservatee's best interest and request upon appointment to obtain authorization to keep her in a living arrangement suited for her condition.	<u>Agreement is in the file for signature.</u>
Not.Cred.			
✓ Notice of Hrg		1. <u>Need Dementia Attachment to Capacity Declaration GC-335A in support of dementia medication and placement powers.</u>	Reviewed by: skc
✓ Aff.Mail	W		
Aff.Pub.		Court Investigator Jennifer Young filed a report on 3-19-13.	Reviewed on: 5-20-13
Sp.Ntc.			
✓ Pers.Serv.	W	Updates:	Recommendation:
✓ Conf. Screen			
✓ Letters		File 10 - Greenberg	
✓ Duties/Supp			
Objections			
✓ Video Receipt			
CI Report	X		
9202			
✓ Order			
Aff. Posting			
Status Rpt			
UCCJEA			
✓ Citation			
FTB Notice			

Petition for Appointment of Probate Conservator of the Estate (Prob. C. 1820, 1821, 2680-2682)

Age: 60		<u>NO TEMPORARY REQUESTED</u>		NEEDS/PROBLEMS/COMMENTS:	
		PUBLIC GUARDIAN , is Petitioner and requests appointment as Conservator of the Estate without bond.		Court Investigator advised rights on 05/06/13.	
Cont. from		<u>Estimated Value of the Estate:</u>		<u>Note:</u> If the petition is granted status hearings will be set as follows:	
	Aff.Sub.Wit.		Personal property - \$50.61		
✓	Verified		Annual income unknown		
	Inventory			• Friday, 10/25/13 at 9:00a.m. in Dept. 303 for the filing of the inventory and appraisal; and	
	PTC			• Friday, 07/25/14 at 9:00a.m. in Dept. 303 for the filing of the first account.	
	Not.Cred.			Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter the status hearing will come off calendar and no appearance will be required.	
✓	Notice of Hrg		Petitioner states that Ms. Nelson is unable to manage her finances. A church friend had been assisting her, but is unable to continue to do so. Ms. Nelson has a pension and social security income that is directly deposited to her bank account, however, she also has a mortgage that is automatically withdrawn from her bank account and not leaving enough money to cover her share of cost at Pacific Gardens where she lives. It is not feasible for Ms. Nelson to return to her home due to the level of care she requires. Petitioner is requesting authority to sell any unneeded personal property and sell her condominium (or to abandon it if she owes more than it is worth). This would remove the burden of a mortgage payment and any costs affiliated with the ownership of the property from her estate. The sale of the real property will be subject to court confirmation.		
✓	Aff.Mail	n/a			
	Aff.Pub.				
	Sp.Ntc.				
✓	Pers.Serv.	w/			
	Conf. Screen	n/a			
✓	Letters				
	Duties/Supp	n/a			
	Objections				
	Video Receipt				
✓	CI Report				
	9202				
✓	Order				
	Aff. Posting				
	Status Rpt				
	UCCJEA				
✓	Citation				
	FTB Notice				
			Court Investigator Charlotte Bien filed a report on 05/13/13.		
				Reviewed by: JF	
				Reviewed on: 05/21/13	
				Updates:	
				Recommendation:	
				File 11 – Nelson	

		NEEDS/PROBLEMS/COMMENTS: <div style="text-align: center; font-weight: bold; margin-top: 20px;"> <u>OFF CALENDAR</u> </div>
Cont. from 042513		
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
		Reviewed by: JF Reviewed on: 05/21/13 Updates: Recommendation: File 12 - Galindo

Petition for Appointment of Probate Conservator of the Person (Prob. C. 1820, 1821, 2680-2682)

Age: 32	NO TEMPORARY ORDERS	NEEDS/PROBLEMS/COMMENTS:
	<p>ELIZABETH CASTILLO, sister, and ALEXANDER DE LA TORRE, brother request appointment as Conservator of the person, with medical consent powers.</p> <p>Declaration of Richard Berquist, M.D., 02/12/2013.</p> <p>Voting Rights Affected</p> <p>Petitioner states: proposed conservatee is diagnosed with developmental delay and severe mental retardation. He is completely non-verbal and has the cognitive ability of a toddler. He wears adult undergarments and requires constant care and supervision. Proposed conservatee attends special education classes at Central Valley Training Center, Monday through Friday from 9am until 2:30 pm. Proposed conservatee is also a client at Central Valley Regional Center. His Counselor, Steve Lopez, may be able to provide the Court with additional information as to proposed conservatee's exact diagnosis.</p> <p>Court Investigator Samantha D. Henson's report filed 05/22/2013.</p>	<p>Court Investigator Advised Rights on 05/22/2013.</p>
Cont. from		
<input type="checkbox"/> Aff.Sub.Wit.		
<input checked="" type="checkbox"/> Verified		
<input type="checkbox"/> Inventory		
<input type="checkbox"/> PTC		
<input type="checkbox"/> Not.Cred.		
<input checked="" type="checkbox"/> Notice of Hrg	<p>Reviewed by: LV</p> <p>Reviewed on: 05/21/2013</p> <p>Updates: 05/22/2013</p> <p>Recommendation:</p> <p>File 13 – De La Torre</p>	
<input checked="" type="checkbox"/> Aff.Mail		
<input type="checkbox"/> Aff.Pub.		
<input type="checkbox"/> Sp.Ntc.		
<input checked="" type="checkbox"/> Pers.Serv.		
<input checked="" type="checkbox"/> Conf. Screen		
<input checked="" type="checkbox"/> Letters		
<input checked="" type="checkbox"/> Duties/Supp		
<input type="checkbox"/> Objections		
<input checked="" type="checkbox"/> Video Receipt		
<input checked="" type="checkbox"/> CI Report		
<input type="checkbox"/> 9202		
<input checked="" type="checkbox"/> Order		
<input type="checkbox"/> Aff. Posting		
<input type="checkbox"/> Status Rpt		
<input type="checkbox"/> UCCJEA		
<input checked="" type="checkbox"/> Citation		
<input type="checkbox"/> FTB Notice		

**Petition for Probate of Will and for Letters off Administration with Will Annexed;
Authorization to Administer Under IAEA (Prob. C. 8002, 10450)**

DOD: 01/11/2013		NORA LEE KENNEDY SHOCK, sister/named executor without bond, is petitioner.		
Cont. from 050813				
	Aff.Sub.Wit.			s/p
✓	Verified			
	Inventory			
	PTC			
	Not.Cred.			
✓	Notice of Hrg			
✓	Aff.Mail			
✓	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.			
	Conf. Screen			
✓	Letters			
✓	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report			
	9202			
✓	Order			
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
	FTB Notice			

Full IAEA- o.k.
Will dated: 03/19/1997
Residence: Fresno Publication: The Business Journal
Estimated value of the Estate: Personal property \$36,000.00 Real property \$140,000.00 Total \$176,000.00
Probate Referee: Steven Diebert

NEEDS/PROBLEMS/COMMENTS:
Note: If the petition is granted status hearings will be set as follows: <ul style="list-style-type: none">• Friday, 10/25/2013 at 9:00a.m. in Dept. 303 for the filing of the inventory and appraisal and• Friday, 07/25/2014 at 9:00a.m. in Dept. 303 for the filing of the first account and final distribution.
Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter the status hearing will come off calendar and no appearance will be required.
Reviewed by: LV
Reviewed on: 05/21/2013
Updates:
Recommendation: Submitted
File 14 – Kennedy

Petition for Appointment of Temporary Guardianship of the Person (Prob. C. 2250)

Eli, 12		GENERAL HEARING 07/15/13		NEEDS/PROBLEMS/COMMENTS:	
Maria, 8		ROSA M. SILVA, maternal grandmother, is Petitioner.		1. Need Duties of Guardian .	
		Father: NOT LISTED		2. Need Confidential Guardian Screening Form .	
		Mother: ANACANI SILVA		3. Need UCCJEA .	
Cont. from		Paternal grandfather: NOT LISTED		4. Need Notice of Hearing .	
	Aff.Sub.Wit.	Paternal grandmother: NOT LISTED		5. Need proof of personal service at least 5 court days before the hearing of Notice of Hearing with a copy of the Petition for Appointment of Temporary Guardian of the Person <u>or</u> Consent & Waiver of Notice <u>or</u> Declaration of Due Diligence for:	
✓	Verified	Maternal grandfather: NOT LISTED		- Father (not listed)	
	Inventory	Sibling: ANTHONY MARTINEZ		- Anacani Silva (mother)	
	PTC			- Eli Silva (minor)	
	Not.Cred.				
	Notice of Hrg	x			
	Aff.Mail				
	Aff.Pub.				
	Sp.Ntc.				
	Pers.Serv.	x			
	Conf. Screen	x			
✓	Letters				
	Duties/Supp	x			
	Objections				
	Video Receipt				
	CI Report				
	9202				
✓	Order				
	Aff. Posting				
	Status Rpt				
	UCCJEA	x			
	Citation				
	FTB Notice				
				Reviewed by: JF	
				Reviewed on: 05/21/13	
				Updates:	
				Recommendation:	
				File 15 - Silva	

Petition to Determine Succession to Real Property (Prob. C. 13151)

DOD: 02/26/2004		JOE MEZA, son, is petitioner.	NEEDS/PROBLEMS/COMMENTS: <u>Continued from 5/20/3013.</u> The following issues remain: 1. There does not appear to be a provision in the Probate Code that would allow an individual to assign or disclaim their right in a summary proceeding. Therefore all who succeed to the property must petition. <i>Disclaimer</i> filed on 5/21/2013 whereby each of the other 11 heirs of the Decedent (other than Petitioner) has disclaimed any interest in the real property, results in having to treat each of the 11 heirs as if they had predeceased the Decedent pursuant to Probate Code §282, which then results in any and all children of the 11 predeceased heirs becoming entitled to the real property. Note: Probate Code § 281 provides a disclaimer, when effective, is irrevocable and binding upon the beneficiary and all persons claiming by, through, or under the beneficiary, including creditors of the beneficiary.
		40 days since DOD.	
		No other proceedings	
Cont. from 052013			
	Aff.Sub.Wit.	I & A - \$43,750.00	
✓	Verified	Decedent died intestate.	
✓	Inventory	Petitioner requests Court determination that decedent's 25% interest in real property located at 5161 E. Pine Fresno, Ca. pass to Joe Meza.	
	PTC		
	Not.Cred.		
✓	Notice of Hrg		
✓	Aff.Mail	w/	
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		

Reviewed by: LV
Reviewed on: 05/22/2013
Updates:
Recommendation:
File 16 – Meza